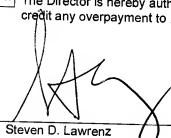


TRANSMITTAL OF APPEAL BRIEFDocket No.
249768011US1

In re Application of: Lopez et al.

Application No.
10/664,820-Conf. #3436Filing Date
September 17, 2003Examiner
M. AirapetianGroup Art Unit
3625Invention: METHOD AND SYSTEM FOR PRICE SUGGESTING USING ITEM-SPECIFIC
ATTRIBUTES**TO THE COMMISSIONER OF PATENTS:**Transmitted herewith is the Appeal Brief in this application, with respect to the Notice of Appeal
filed: June 8, 2007The fee for filing this Appeal Brief is \$ 500.00☒ Large Entity☐ Small Entity☒ A petition for extension of time is also enclosed.The fee for the extension of time is \$ 120.00☐ A check in the amount of _____ is enclosed.☐ Charge the amount of the fee to Deposit Account No. 50-0665
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Lopez et al.

Application No.: 10/664,820

Confirmation No.: 3436

Filed: September 17, 2003

Art Unit: 3625

For: METHOD AND SYSTEM FOR PRICE
SUGGESTING USING ITEM-SPECIFIC
ATTRIBUTES

Examiner: M. Airapetian

APPEAL BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

As required under § 41.37(a), this brief is filed in furtherance of the Notice of Appeal filed on June 8, 2007.

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I. REAL PARTY IN INTEREST

The rights of the inventors in this application have been assigned to Amazon.com, Inc., of Seattle, Washington.

II. RELATED APPEALS AND INTERFERENCES

Neither Appellants, Appellants' legal representative, nor the above-identified Assignee are aware of other appeals or interferences that are related to, will directly affect or be directly affected by or have a bearing on the Board's decision in the present appeal.

III. STATUS OF CLAIMS

Claims 1-71 have been presented. Claims 2, 11-61, 63-64, and 67 have been canceled. Claims 1, 3-10, 62, 65-66, and 68-71 are therefore presently pending and stand finally rejected.

Claims 1, 3-10, 62, 65-66, and 68-71 are the subject of the present appeal. The text of these claims is set forth below in the Claims Appendix.

IV. STATUS OF AMENDMENTS

No amendments have been filed subsequent to an Office Action dated March 8, 2007.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Each independent claim being appealed is paraphrased below, with citations to the corresponding portions of the specification and drawings as required by 37 C.F.R. § 41.37(c)(1)(v). These citations are provided in order to illustrate specific examples and embodiments of the recited claim language, and are not intended to limit the claims.

A. Overview of the Invention

The rejected independent claims are directed to, among other benefits, facilitating commercial transactions by generating transaction price data for items in an auction or a fixed price transaction. Appellants' techniques send the generated transaction price data to a user's computer system in the form of a suggested bid price for an item in an auction, or to a seller's computer in the form of a suggested price for an item offered for sale in a fixed price transaction.

Appellants' techniques classify each item as being within one or more classifications; each classification may have its own set of attributes. For example, a diamond ring may be classified as "jewelry" and have attributes including "condition" and "color." A diamond ring may also be classified as "diamond" and have attributes including "condition," "color," "clarity," and "cut." Another item, such as a car, might be classified as "automobile" and have attributes including "make," "model," "year," and "mileage."

Appellants' techniques allow a user or a seller to search for price information about products meeting specific criteria. The user or seller specifies an item classification and values for some or all of the item's attributes. For example, a user may select "jewelry" as the item classification and "condition = good" and "color = white" as attribute values.

When a particular classification and attribute values are entered by a user or seller, records of transactions for items that match the classification and attribute values are identified. These records are analyzed and, based on the identified prior transactions, transaction price data is generated and sent to the user or seller's computer system in the form of a suggested price.

B. Independent Claims on Appeal

1. Claim 1

Claim 1 is directed to a method for generating transaction price data for an item (See, e.g., Specification, 4:14-27; 5:1-4; 6:11-24; 7:1-6) by providing an item classification/attribute mapping data structure that maps item classifications to attributes, each item classification mapping to a set of attributes specific to that item classification (See, e.g., *id.*, 4:15-17; 6:12-14; 10:13-25; Figure 3); receiving a selection of an item classification from a user's computer system (See, e.g., *id.*, 4:23-24; 6:22-23; 11:11-23; Figure 5); identifying the set of attributes specific to the selected item classification by retrieving the set of attributes from the item classification/attribute mapping data structure (See, e.g., *id.*, 4:24-26; 12:5-17; Figure 7); providing a display of an indication of the identified attributes to the user's computer system (See, e.g., *id.*, 6:23-24; 11:2-10; Figure 4, step 403); receiving an input value for at least one attribute within the set of identified attributes from the user's computer system (See, e.g., *id.*, 4:23-24; 6:24; 7:1-2; 13:6-11; Figure 9, grid 901); retrieving records of transactions for items that are classified within the selected item classification and that match the received input value of the one or more identified attributes (See, e.g., *id.*, 4:24-25; 7:2-4; 14:22-27; 15:1-3; Figure 12, step 1205); analyzing the retrieved records to generate transaction price data for the item (See, e.g., *id.*, 4:26-27; 7:2-6; 15:3-4; Figure 12, step 1206); and sending to the user's computer system the generated transaction price data as a suggested bid price in an auction (See, e.g., *id.*, 6:19-21; 7:2-6; 13:15-24; 15:3-5; Figure 10, field 1002; Figure 12, step 1207).

2. Claim 62

Claim 62 is directed to a method for generating transaction price data for an item (See, e.g., Specification, 4:14-27; 5:1-4; 6:11-25; 7:1-6) by providing an item classification/attribute mapping data structure that maps item classifications to attributes, each item classification mapping to a set of attributes specific to that item

classification (See, e.g., *id.*, 4:15-17; 6:12-14; 10:13-25; Figure 3); receiving from a user's computer system a selection of an item classification (See, e.g., *id.*, 4:23-24; 6:22-23; 11:11-23; Figure 5); based on a mapping of the selected item classification to a condition attribute associated with the selected item classification (See, e.g., *id.*, 4:24-26; 12:5-17; Figure 7), providing to the user's computer system an indication of the condition attribute (See, e.g., *id.*, 6:23-24; 11:2-10; Figure 4, step 403); receiving from the user's computer system a specification of a condition value associated with the item (See, e.g., *id.*, 4:23-24; 6:24; 7:1-2; 13:6-11; Figure 9, grid 901); retrieving records of transactions for items that are classified within the selected item classification and that match the received condition value (See, e.g., *id.*, 4:24-25; 7:2-4; 14:22-27; 15:1-3; Figure 12, step 1205); analyzing the retrieved records to generate transaction price data for the item (See, e.g., *id.*, 4:26-27; 7:2-6; 15:3-4; Figure 12, step 1206); and sending to the user's computer system the generated transaction price data as a suggested bid price for an item in an auction (See, e.g., *id.*, 6:19-21; 7:2-6; 13:15-24; 15:3-5; Figure 10, field 1002; Figure 12, step 1207).

3. Claim 68

Claim 68 is directed to a method for generating transaction price data for an item (See, e.g., Specification, 4:14-27; 5:1-4; 6:11-25; 7:1-6) by providing an item classification/attribute mapping data structure that maps item classifications to attributes, each item classification mapping to a set of attributes specific to that item classification (See, e.g., *id.*, 4:15-17; 6:12-14; 10:13-25; Figure 3); receiving from a seller's computer system a selection of an item classification for an item offered for sale (See, e.g., *id.*, 4:23-24; 6:22-23; 11:11-23; Figure 5) and a specification of a condition value for the item (See, e.g., *id.*, 4:23-24; 6:24; 7:1-2; 13:6-11; Figure 9, grid 901), wherein condition is an attribute that maps to the selected item classification (See, e.g., *id.*, 4:24-26; 12:5-17; Figure 7); retrieving records of transactions for items that are classified within the selected item classification received from the seller's computer and that have condition values that match the specified condition value received from the seller's computer (See, e.g., *id.*, 4:24-25; 7:2-4; 14:22-27; 15:1-3; Figure 12, step 1205); analyzing the retrieved records to

generate transaction price data for the item (See, e.g., *id.*, 4:26-27; 7:2-6; 15:3-4; Figure 12, step 1206); and sending to the seller's computer system the generated transaction price data as a suggested price for an item offered for sale in a fixed price transaction (See, e.g., *id.*, 6:19-21; 7:2-6; 13:15-24; 15:3-5; Figure 10, field 1002; Figure 12, step 1207).

VI. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

A. The Examiner's Rejections

1. The Examiner rejected claims 1, 3, 6, 8-9, 62, 65-66, and 68-71 under 35 U.S.C. § 103(a) over U.S. Patent No. 6,411,960 to Fisher ("Fisher") and U.S. Patent No. 6,415,264 to Walker et al. ("Walker").

2. The Examiner rejected claim 4 under 35 U.S.C. § 103(a) over Fisher, Walker, and U.S. Patent No. 6,044,363 to Mori et al. ("Mori").

3. The Examiner rejected claim 5 under 35 U.S.C. § 103(a) over Fisher, Walker, and U.S. Patent No. 6,078,901 to Ching ("Ching").

4. The Examiner rejected claim 7 under 35 U.S.C. § 103(a) over Fisher, Walker, and U.S. Patent No. 6,799,165 to Boesjes ("Boesjes").

5. The Examiner rejected claim 10 under 35 U.S.C. § 103(a) over Fisher, Walker, and U.S. Patent No. 6,393,426 to Odom et al. ("Odom").

B. The Issues on Appeal

1. Is the rejection of claims 1, 3, 6, 8-9, 62, 65-66, and 68-71 under 35 U.S.C. § 103(a) over the combination of Fisher and Walker proper?

2. Is the rejection of claim 4 under 35 U.S.C. § 103(a) over the combination of Fisher, Walker, and Mori proper?

3. Is the rejection of claim 5 under 35 U.S.C. § 103(a) over the combination of Fisher, Walker, and Ching proper?

4. Is the rejection of claim 7 under 35 U.S.C. § 103(a) over the combination of Fisher, Walker, and Boesjes proper?

5. Is the rejection of claim 10 under 35 U.S.C. § 103(a) over the combination of Fisher, Walker, and Odom proper?

VII. ARGUMENT

A. All of the Rejections under 35 U.S.C. § 103(a) are Improper

1. Legal Standard for Obviousness

All of the claims on appeal stand rejected under 35 U.S.C. § 103(a), which provides:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

To properly reject claims as obvious, "the examiner bears the initial burden of presenting a *prima facie* case of obviousness." *In re Rijckaert*, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d (BNA) 1955, 1956 (Fed. Cir. 1993). To present a *prima facie* case of obviousness, the Examiner must show that "there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue." *KSR Int'l Co. v. Teleflex Inc.*, No. 04-1350, slip op. at 14 (U.S. Apr. 30, 2007). Relevant considerations may include "interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art." *Id.* The Examiner's analysis "should be made explicit." *Id.* "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal standard of obviousness." *Id.* (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)).

Under these standards, Appellants' invention would not have been obvious. The Examiner has not identified references that disclose or suggest all the elements of the pending claims. Furthermore, the Examiner has not identified an apparent reason to combine the references in the manner recited in each of Appellants' claims. Therefore, the rejection of the claims should be reversed.

2. Overview of the Cited References

a. Fisher

Fisher describes an electronic catalogue system with an associated database. (See abstract.) Fisher allows users to retrieve information from the catalogue on a particular product. (See 4:30-48; 10:18-26.) When the user selects a product, the system searches database tables for data items related to the selected product. (See 10:30-47; 4:50-5:15.) Fisher uses one or more templates to generate an information page on the selected product for display to the user; the information page contains data items related to the selected product. (See 10:30-47; 9:26-50.) The data items may include product features, images, price, and other information. (See 11:56-12:2.) In addition, Fisher allows vendors to upload product information and design templates that specify the manner in which the data items will be displayed. (See 4:23-29.)

b. Walker

Walker describes a system for offering incentive payments – called "posting payments" – to sellers who post items for sale in an auction conducted by a particular auction company. (See 2:40-47; 3:62-67.) In particular, for each of a number of "floor prices" that a seller may select when posting his or her item for sale in an auction (that is, a minimum amount that a buyer must bid to be able to purchase the item), Walker specifies a different posting payment amount. (See 4:12-21; 8:10-30; Figure 4.) Walker receives information from a potential seller about an item to be sold, which may include the type of item, reputation of the seller, floor price, condition of the item, and other information. (See 3:55-61; 5:66-6:62.) Based on the received information, Walker determines and displays a posting payment amount for each of

multiple floor prices. (See 8:25-30; Figure 4.) Walker calibrates these different posting payment amounts to encourage a seller to post an item at a reasonable floor price. (See 8:10-24.) When posting the item for sale, the seller selects a floor price and receives the posting payment amount that corresponds to the selected floor price. (See 8:25-30; 4:12-21; Figure 4.)

3. The Rejection of Claims 1, 3, 6, 8-9, 62, 65-66, and 68-71 under 35 U.S.C. § 103(a) over the Combination of Fisher and Walker is Improper
 - a. The Examiner has failed to show how the combination of Fisher and Walker teaches or suggests all of the recited features of claims 1, 3, 6, 8-9, 62, 65-66, and 68-71, and has thereby failed to establish a *prima facie* case of obviousness

In the Final Office Action mailed March 8, 2007, the Examiner rejected claims 1, 3, 6, 8-9, 62, 65-66, and 68-71 under 35 U.S.C. § 103(a) as over the combination of Fisher and Walker. However, the Examiner has failed to show that Fisher and Walker together disclose or suggest all of the recited features of these claims, and has thereby failed to establish a *prima facie* case of obviousness. In particular, the Examiner has failed to show how Fisher and Walker together disclose or suggest (1) "sending to the user's computer system the generated transaction price data as a suggested bid price in an auction," or (2) "sending to the seller's computer system the generated transaction price data as a suggested price for an item offered for sale in a fixed price transaction."

Independent claims 1 and 62 recite, *inter alia*, "sending to the user's computer system the generated transaction price data as a suggested bid price in an auction." The Examiner characterized Walker's discussion at 8:13-16 as disclosing "sending to the user's computer system the generated transaction price data as a suggested bid price in an auction." In particular, the Examiner cited Walker's "communication between the posting site and the seller indicates that the user receiving [sic] the transaction price data." (Final Office Action, March 8, 2007, p. 4.) The Examiner is mistaken. The cited section of Walker does not teach or suggest "sending to the

user's computer system the generated transaction price data as a suggested bid price in an auction" as recited. This portion of Walker describes that the posting site and the seller both benefit from a reasonable floor price. In particular, Walker describes that "[b]y adjusting the posting payment amount, the posting site can encourage a seller to post an item using a reasonable floor price." (Walker, 8:15-17.) Walker displays certain price data to a seller, including one or more options for a price floor that may be established by the seller. (See *id.*, Figure 8, column 810.) The posting payment amount, e.g., "an amount of money to be paid to the seller in return for posting an item to be sold" (See *id.*, 3:64-67), varies with the price floor that is established by the seller. (See *id.*, Figure 8, column 840.)

The price data described by the cited portion of Walker differs from Appellants' transaction price data in at least two ways. First, Walker's price data is sent to the seller's computer, while Appellants' transaction price data is sent to the user's (i.e., buyer's) computer system. Second, Walker's price data does not correspond to Appellants' "suggested bid price in an auction." Walker's price data comprises one or more options for a price floor that may be established by the seller. This does not correspond to Appellants' "suggested bid price." By definition, to bid is "to offer (a certain sum) as the price one will pay or charge." (Random House Webster's Unabridged Dictionary 204 (2d ed. 1998).) Especially when used in the context of an auction, "bid" is used to describe a price offered by a buyer, not a price set by the seller. (See, e.g., *id.* ("to make a bid: She bid at the auction for the old chair").) There is simply no correspondence between the one or more options for a price floor to be set by a seller described by Walker and Appellants' "suggested bid price." The Examiner has not satisfied the burden of demonstrating that the cited art references disclose or suggest all of the recited features of Appellants' independent claims 1 and 62. Because claims 3, 6, 8-9, and 65-66 depend either from claim 1 or claim 62, the Examiner has similarly failed to satisfy the burden of demonstrating that the cited art references disclose or suggest all of the recited features of these dependent claims, for at least the reasons described above. Accordingly, claims 1, 3, 6, 8-9, 62, and 65-66 were improperly rejected under 35 U.S.C. § 103(a).

Independent claim 68 recites, *inter alia*, "sending to the seller's computer system the generated transaction price data as a suggested price for an item offered for sale in a fixed price transaction." The Examiner indicated that "[a]ll of the limitations in claim 68 are closely parallel to the limitations of claim 62, analyzed above[,] and are rejected on the same basis." (Final Office Action, March 8, 2007, p. 7.) Accordingly, the Examiner apparently characterized Walker's discussion at 8:13-16 as disclosing "sending to the seller's computer system the generated transaction price data as a suggested price for an item offered for sale in a fixed price transaction." However, it should be noted that the recited features of claim 68 are, in fact, not all "closely parallel" to the recited features of claim 62. Claim 68 recites sending transaction price data to a seller's computer system, while claim 62 recites sending transaction price data to a user's (i.e., buyer's) computer system. In addition, claim 68 recites determining the sent transaction price data based on an item offered for sale in a fixed price transaction, while claim 62 recites determining the sent transaction price data based on an auction. The Examiner apparently did not consider the distinctions between these independent claims when rejecting claim 68 on the same basis as claim 62.

The price data described by the cited portion of Walker differs from Appellants' transaction price data, as recited in claim 68, in at least two ways. First, Walker's price data does not comprise a "suggested price," as in Appellants' techniques. Walker simply displays to the seller one or more options for a price floor that may be established by the seller, along with a posting payment amount for each price floor and other information, such as historic sales percentage and commission percentage. Walker's system does not "suggest" one price floor over the other; it is apparently up to the seller to select a price floor after evaluating the displayed information. For example, Figure 8 shows that if a seller sets a price floor of \$200.00, the seller will receive a posting payment amount of \$6.00. Figure 8 also indicates to the seller that similar items sell 80% of the time when the price floor is set at \$200.00. If a seller sets a price floor of \$250.00, the seller will receive a posting payment amount of \$6.25. However, similar items sell only 65% of the time when the price floor is set at \$250.00. (See Walker, 8:34-38; Figure 8.) It is up to the seller to

determine whether to choose the higher posting payment amount or the higher historic sales percentage. The seller must balance the price data and other information presented by Walker's system; it cannot be said that Walker "suggests" a price to the seller. Second, Walker does not disclose or suggest providing any information with respect to a "fixed price transaction," as recited by this claim. Indeed, the concept of a seller establishing a price floor is inconsistent with a fixed price transaction. The Examiner has not satisfied the burden of demonstrating that the cited art references disclose or suggest all of the recited features of Appellants' independent claim 68. Further, because claims 69-71 depend from claim 68, the Examiner has similarly failed to satisfy the burden of demonstrating that the cited art references disclose or suggest all of the recited features of these dependent claims, for at least the reasons described above. Accordingly, claims 68-71 were improperly rejected under 35 U.S.C. § 103(a).

- b. The combination of Fisher and Walker fails to disclose all of the recited features of claims 1, 3, 6, 8-9, 62, 65, 66, and 68-71, and is therefore incapable of supporting a proper rejection under 35 U.S.C. § 103(a)

Not only has the Examiner failed to show that Fisher and Walker together disclose or suggest all of the recited features of claims 1, 3, 6, 8-9, 62, 65-66, and 68-71, the cited references together do not in fact disclose or suggest all of the recited features of these claims. In particular, Appellants can find nothing in Fisher or Walker that discloses or suggests (1) "sending to the user's computer system the generated transaction price data as a suggested bid price in an auction," or (2) "sending to the seller's computer system the generated transaction price data as a suggested price for an item offered for sale in a fixed price transaction." Accordingly, the combination of Fisher and Walker is incapable of supporting any proper rejection under 35 U.S.C. § 103(a).

- c. The Examiner has failed to show that there is a rational apparent reason to combine Fisher and Walker, and has thereby failed to establish a *prima facie* case of obviousness

The Examiner has not articulated a rational apparent reason to combine Fisher and Walker to arrive at any of Appellants' claims. In determining whether there is an apparent reason to combine cited references, the Examiner's analysis must be explicit and "cannot be sustained by mere conclusory statements." *KSR Int'l Co. v. Teleflex Inc.*, No. 04-1350, slip op. at 14 (U.S. Apr. 30, 2007) (citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006)). The Examiner must articulate "reasoning with some rational underpinning to support the legal standard of obviousness." *Id.* The Examiner characterized Walker's discussion at 2:27-29 and 8:14-17 as an apparent reason to combine Fisher and Walker. In particular, the Examiner states that one skilled in the art would have reason to combine Fisher and Walker "because it would encourage a seller to post an item for sale, especially at a reasonable price, so the posting site and the seller both benefit from a reasonable price." (Final Office Action, March 8, 2007, p. 4.) However, this is simply a recitation of one of the purposes behind Walker's invention, which is directed to paying a seller an amount of money in return for posting an item to be sold, where the amount paid to the seller varies with the floor price set by the seller. This is not a reasoned analysis of why one skilled in the art would have reason to combine the cited references, or even to alter Walker in any respect. The Examiner has not satisfied the burden of articulating a rational apparent reason to combine the cited art to arrive at any of Appellants' claims. Accordingly, the pending claims were improperly rejected under 35 U.S.C. § 103(a).

- d. There is no apparent reason to combine Fisher and Walker, and therefore their combination is incapable of supporting a proper rejection under 35 U.S.C. § 103(a)

Not only has the Examiner failed to show that there is a rational apparent reason to combine Fisher and Walker to arrive at any of Appellants' claims, after careful review of the cited references, Appellants are not aware of such an apparent reason.

4. The Rejection of Claim 4 under 35 U.S.C. § 103(a) over the Combination of Fisher, Walker, and Mori is Improper

- a. The Examiner has failed to show how the combination of Fisher, Walker, and Mori teaches or suggests all of the recited features of claim 4, and has thereby failed to establish a *prima facie* case of obviousness

In the Final Office Action mailed March 8, 2007, the Examiner rejected claim 4 under 35 U.S.C. § 103(a) over the combination of Fisher, Walker, and Mori. However, for at least the reason that dependent claim 4 contains all of the features and elements of independent claim 1, the Examiner has failed to show that the cited references together disclose or suggest all of the recited features of claim 4, and has thereby failed to establish a *prima facie* case of obviousness. Accordingly, claim 4 was improperly rejected under 35 U.S.C. § 103(a).

- b. The combination of Fisher, Walker, and Mori fails to disclose all of the recited features of claim 4, and is therefore incapable of supporting a proper rejection under 35 U.S.C. § 103(a)

Not only has the Examiner has failed to show that Fisher, Walker, and Mori together disclose or suggest all of the recited features of claim 4, for at least the reason that dependent claim 4 contains all of the features and elements of independent claim 1, the cited references together do not in fact disclose or suggest all of the recited features of these claims. Accordingly, the combination of Fisher, Walker, and Mori and is incapable of supporting any proper rejection under 35 U.S.C. § 103(a).

5. The Rejection of Claim 5 under 35 U.S.C. § 103(a) over the Combination of Fisher, Walker, and Ching is Improper

- a. The Examiner has failed to show how the combination of Fisher, Walker, and Ching teaches or suggests all of the recited features of claim 5, and has thereby failed to establish a *prima facie* case of obviousness

In the Final Office Action mailed March 8, 2007, the Examiner rejected claim 5 under 35 U.S.C. § 103(a) over the combination of Fisher, Walker, and Ching.

However, for at least the reason that dependent claim 5 contains all of the features and elements of independent claim 1, the Examiner has failed to show that the cited references together disclose or suggest all of the recited features of claim 5, and has thereby failed to establish a *prima facie* case of obviousness. Accordingly, claim 5 was improperly rejected under 35 U.S.C. § 103(a).

- b. The combination of Fisher, Walker, and Ching fails to disclose all of the recited features of claim 5, and is therefore incapable of supporting a proper rejection under 35 U.S.C. § 103(a)

Not only has the Examiner failed to show that Fisher, Walker, and Ching together teach or suggest all of the recited features of claim 5, for at least the reason that dependent claim 5 contains all of the features and elements of independent claim 1, the cited references together do not in fact disclose or suggest all of the recited features of these claims. Accordingly, the combination of Fisher, Walker, and Ching and is incapable of supporting any proper rejection under 35 U.S.C. § 103(a).

- 6. The Rejection of Claim 7 under 35 U.S.C. § 103(a) over the Combination of Fisher, Walker, and Boesjes is Improper
 - a. The Examiner has failed to show how the combination of Fisher, Walker, and Boesjes teaches or suggests all of the recited features of claim 7, and has thereby failed to establish a *prima facie* case of obviousness

In the Final Office Action mailed March 8, 2007, the Examiner rejected claim 7 under 35 U.S.C. § 103(a) over the combination of Fisher, Walker, and Boesjes. However, for at least the reason that dependent claim 7 contains all of the features and elements of independent claim 1, the Examiner has failed to show that the cited references together disclose or suggest all of the recited features of claim 7, and has thereby failed to establish a *prima facie* case of obviousness. Accordingly, claim 7 was improperly rejected under 35 U.S.C. § 103(a).

- b. The combination of Fisher, Walker, and Boesjes fails to disclose all of the recited features of claim 7, and is therefore incapable of supporting a proper rejection under 35 U.S.C. § 103(a)

Not only has the Examiner has failed to show that Fisher, Walker, and Boesjes together disclose or suggest all of the recited features of claim 7, for at least the reason that dependent claim 7 contains all of the features and elements of independent claim 1, the cited references together do not in fact disclose or suggest all of the recited features of these claims. Accordingly, the combination of Fisher, Walker, and Boesjes and is incapable of supporting any proper rejection under 35 U.S.C. § 103(a).

7. The Rejection of Claim 10 under 35 U.S.C. § 103(a) over the Combination of Fisher, Walker, and Odom is Improper

- a. The Examiner has failed to show how the combination of Fisher, Walker, and Odom teaches or suggests all of the recited features of claim 10, and has thereby failed to establish a *prima facie* case of obviousness

In the Final Office Action mailed March 8, 2007, the Examiner rejected claim 10 under 35 U.S.C. § 103(a) over the combination of Fisher, Walker, and Odom. However, for at least the reason that dependent claim 10 contains all of the features and elements of independent claim 1, the Examiner has failed to show that the cited references together disclose or suggest all of the recited features of claim 10, and has thereby failed to establish a *prima facie* case of obviousness. Accordingly, claim 10 was improperly rejected under 35 U.S.C. § 103(a).

- b. The combination of Fisher, Walker, and Odom fails to disclose all of the recited features of claim 10, and is therefore incapable of supporting a proper rejection under 35 U.S.C. § 103(a)

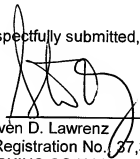
Not only has the Examiner has failed to show that the Fisher, Walker, and Odom together disclose or suggest all of the recited features of claim 10, for at least the reason that dependent claim 10 contains all of the features and elements of independent claim 1, the cited references together do not in fact disclose or suggest all of the recited features of these claims. Accordingly, the combination of Fisher, Walker, and Odom and is incapable of supporting any proper rejection under 35 U.S.C. § 103(a).

VIII. SUMMARY

Each of claims 1, 3-10, 62, 65-66, and 68-71 has been improperly rejected, both (a) in that the Examiner has failed to provide cited references that disclose all of the elements of these claims, and (b) in that the cited references would not support any proper rejection of these claims. Accordingly, Appellants seek the reversal of the rejection of claims 1, 3-10, 62, 65-66, and 68-71.

Dated: 9/6/07

Respectfully submitted,

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CLAIMS APPENDIX

Claims Involved in the Appeal of Application Serial No. 10/664,820

1. A method in a computer system for generating transaction price data for an item, the method comprising:
 - providing an item classification/attribute mapping data structure that maps item classifications to attributes, each item classification mapping to a set of attributes specific to that item classification;
 - receiving a selection of an item classification from a user's computer system;
 - identifying the set of attributes specific to the selected item classification by retrieving the set of attributes from the item classification/attribute mapping data structure;
 - providing a display of an indication of the identified attributes to the user's computer system;
 - receiving an input value for at least one attribute within the set of identified attributes from the user's computer system;
 - retrieving records of transactions for items that are classified within the selected item classification and that match the received input value of the one or more identified attributes;
 - analyzing the retrieved records to generate transaction price data for the item;
 - and
 - sending to the user's computer system the generated transaction price data as a suggested bid price in an auction.
3. The method of claim 1 wherein the records of transactions include records for both fixed-price sale and auction transactions.
4. The method of claim 1 wherein one of the attributes within the set of attributes relates to duration of a transaction.

5. The method of claim 1 including receiving a specification of attributes to serve as x and y coordinates for a graph of the transaction price data.

6. The method of claim 1 wherein the receiving of the selection of an item classification includes browsing through a browse category organization.

7. The method of claim 1 wherein the receiving of the selection of an item classification includes receiving a specification of keywords and identifying an item classification that matches the specified keywords.

8. The method of claim 1 wherein the receiving of the selection of an item classification includes browsing through an item classification organization.

9. The method of claim 1 wherein the selected item classification is not a leaf classification of an item classification hierarchy.

10. The method of claim 1 wherein the selected item classification is within a non-hierarchical item classification organization.

62. A method in a computer system for generating transaction price data for an item, the method comprising:

providing an item classification/attribute mapping data structure that maps item classifications to attributes, each item classification mapping to a set of attributes specific to that item classification;

receiving from a user's computer system a selection of an item classification; based on a mapping of the selected item classification to a condition attribute associated with the selected item classification, providing to the user's computer system an indication of the condition attribute;

receiving from the user's computer system a specification of a condition value associated with the item;

retrieving records of transactions for items that are classified within the selected item classification and that match the received condition value;
analyzing the retrieved records to generate transaction price data for the item;
and
sending to the user's computer system the generated transaction price data as a suggested bid price for an item in an auction.

65. The method of claim 62 wherein the item is not new.

66. The method of claim 62 wherein the item is used.

68. A method in a computer system for generating transaction price data for an item, the method comprising:

providing an item classification/attribute mapping data structure that maps item classifications to attributes, each item classification mapping to a set of attributes specific to that item classification;

receiving from a seller's computer system a selection of an item classification for an item offered for sale and a specification of a condition value for the item, wherein condition is an attribute that maps to the selected item classification;

retrieving records of transactions for items that are classified within the selected item classification received from the seller's computer and that have condition values that match the specified condition value received from the seller's computer;

analyzing the retrieved records to generate transaction price data for the item;
and

sending to the seller's computer system the generated transaction price data as a suggested price for an item offered for sale in a fixed price transaction.

69. The method of claim 68 wherein the specified condition value is excellent.

70. The method of claim 68 wherein the specified condition value is fair.

71. The method of claim 68 wherein the specified condition value is good.

EVIDENCE APPENDIX

None.

RELATED PROCEEDINGS APPENDIX

None.